



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/498,283 02/04/00 FRIESEN

G P04367USQ

022885 MMC2/0806
ZARLEY MCKEE THOMTE VOORHEES & SEASE PLC
SUITE 3200
801 GRAND AVENUE
DES MOINES IA 50309-2721

EXAMINER

GIBSON, R

ART UNIT

PAPER NUMBER

2859
DATE MAILED:

08/06/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/498,283

Applicant(s)

FRIESEN, GARRY D.

Examiner

Randy W. Gibson

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-17 is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 9, lines 8-11, it is unclear from the actual wording of the claim if the hopper is actually removed from the trailer when it is sitting on another support surface.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton in view of Maguire, Jebens et al [GB 2100568], Gendreau [EP 0141756 A2], and Gendreau [FR 2581602 A1]. Hamilton discloses a seed weighing and transport device including a trailer (12) which can be hitched to a vehicle (Col. 2, lines 58-61), a

Art Unit: 2859

hopper (10) with a plurality of legs (Figure 1; the struts immediately above elements 14) which can be removed from the trailer by loosening the bolts (62), and a weighing system (20) sandwiched between the trailer and the hopper (Figures 1 & 2) which is free from rotational torque by means of the adjustable brackets (Col. 4, lines 15-22). Hamilton discloses the claimed invention except for: (a) the auger for feeding seed; (b) the elongated bolt-hole slots which allow relative adjustment between the hopper and the frame; and, (c) the use of a two compartment hopper.

The examiner notes that it is well known in the art to place an auger on the bottom of a hopper to meter out the contents thereof as shown by the examples of Maguire (Col. 3, lines 47-65), Jebens et al (Fig. 1), Gendreau '756 (Fig. 1), and Gendreau '602 (Fig.s 1, 2, & 4). Since the load cell weighing arrangement of Hamilton is for any generic trailer supported hopper device, including a seed hopper in one embodiment, it would have been obvious to one of ordinary skill in the art to modify the hopper of Hamilton with an auger for metering seed.

The examiner notes that the use of elongated slots for the insertion of bolts is well known and that it would have been obvious to use such elongated bolt-holes in the device of Hamilton to allow for looser tolerances in the mass production of the frame (IE: the bolt holes in the load cell need not precisely match up with the bolt holes in the frame if at least one of the bolt hole is actually a slot instead of a cylinder).

The use of a two compartment hopper is also well known, as shown by the examples of Maguire and Gendreau '602 (Fig.s 3 & 4), and would have been obvious to one of ordinary skill to allow the planting of two different types of seed.

Art Unit: 2859

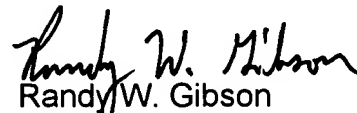
Conclusion

4. Claims 15-17 are allowable over the art of record.
5. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (703) 308-1765. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.


Randy W. Gibson
Primary Examiner
Art Unit 2859

August 2, 2001